

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KAREN McCLARNON,

Civil Action No: 2:20-cv-779

Plaintiff,

v.

BOROUGH OF VANDERGRIFT,
KATHY CHVALA, individually and in
her official capacity,
CHRISTINE WILSON, individually and
in her official capacity,
JOHN USKURAITIS, individually and in
his official capacity,
THOMAS HOLMES, individually and in
his official capacity,
LENNY COLLINI, individually and in
his official capacity,
JOSEPH M. CAPORALI, individually and
in his official capacity,
NATHAN RIGATTI, individually and in
his official capacity.

JURY TRIAL DEMANDED

Defendants.

MOTION TO DISMISS AMENDED COMPLAINT

Defendants, through undersigned counsel, respectfully submit this Motion to Dismiss Amended Complaint pursuant to Fed.R.Civ.P. 12(b)(6), based upon the following considerations:

1. Plaintiff, an elected member of Vandergrift Borough Council, initiated this lawsuit against the Borough, various other Council members, the Mayor, Police Chief, and a Borough police officer, alleging violations of her constitutional rights pursuant to 42 U.S.C. § 1983.

2. Defendants filed a Motion to Dismiss the Complaint based on the legal insufficiency of all claims, in response to which Plaintiff filed a Brief in Opposition and therein also requested the opportunity to amend.

3. By Orders entered on November 19, 2020, the Court denied Defendants' motion without prejudice and granted Plaintiff leave to file an Amended Complaint.

4. For the reasons fully addressed in the accompanying Brief, Defendants respectfully submit that the Amended Complaint filed by Plaintiff fails to cure the deficiencies of the original Complaint, and should be dismissed in its entirety.

WHEREFORE, Defendants respectfully request that this Honorable Court enter an order dismissing the Amended Complaint with prejudice as to all Defendants.

Respectfully submitted,

THOMAS, THOMAS & HAFFER, LLP

By: s/ Karin M. Romano
Thomas P. McGinnis / Pa. ID 46666
Karin M. Romano / Pa. ID 92068
Samuel G. Dunlop / Pa. ID 325785

525 William Penn Place
37th Floor, Suite 3750
Pittsburgh, PA 15219
Phone: 412-697-7403
Fax: 412-697-7407

Counsel for Defendants